

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FREEDOM FOUNDATION,

Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL 117, et al.,

Defendants.

CASE NO. 3:22-cv-05273-DGE

ORDER ON MOTION FOR
SUMMARY JUDGMENT (DKT.
NO. 58)

Before the Court is a motion for summary judgment filed by Defendant Jay Inslee in his official capacity as Governor of the State of Washington. (Dkt. No. 58.) Defendant Inslee argues Plaintiff Freedom Foundation lacks standing on Count II of its complaint, which alleges a “fail[ure] to provide procedural safeguards to ensure adequate protection of public employees’ First Amendment rights” (Dkt. No. 1 at 16). (Dkt. No. 58 at 1–2.) In the alternative, Defendant Inslee contends Count II fails as a matter of law. (*Id.* at 8.) Count II is the only cause of action asserted against Defendant Inslee in the complaint.

1 Importantly, the Court dismissed the same claim as against the Union Defendants in
2 granting the Union Defendants’ motion for summary judgment. (Dkt. No. 54 at 1, 3.)
3 Specifically, the Court concluded Plaintiff did not have organizational standing because Plaintiff
4 failed to show frustration of its organizational mission or diversion of resources. (*Id.* at 5–6.)
5 The Court also concluded Plaintiff did not have third party standing because Plaintiff did not
6 have a sufficiently close relationship with third party public employees. (*Id.* at 6–7.)

7 Plaintiff’s response to the instant motion for summary judgment does not remedy these
8 shortcomings, and, accordingly, the Court reaffirms its conclusion that Plaintiff lacks standing.
9 (*Id.* at 4–7.) Indeed, Plaintiff relies almost entirely upon the same factual record in opposing the
10 instant motion as it relied upon in opposing the Union Defendants’ motion, but for a second
11 declaration from the Freedom Foundation’s National Outreach Director that lists services
12 provided by the Freedom Foundation to public employees, states that the Freedom Foundation
13 does not require public employees to pay for its services, and states that the Freedom Foundation
14 raises funds from donors. (Dkt. No. 59-1 at 2.) These factual assertions do not change the
15 Court’s conclusion regarding the absence of organizational and third party standing.

16 For instance, the new declaration says nothing about Plaintiff’s organizational mission
17 (*see generally* Dkt. No. 59-1); on that basis alone, the Court’s prior finding that Plaintiff lacks
18 organizational standing (Dkt. No. 54 at 6) remains unchanged.¹ And, while the declaration
19 contains facts regarding its fundraising (*see* Dkt. No. 59-1 at 2) in an apparent attempt at
20

21 ¹ Plaintiff argues it should be afforded a jury trial on the question of “whether its core mission
22 included facilitating employees’ disassociating from the union.” (Dkt. No. 59 at 17.) However,
23 “[t]o survive [a] summary judgment motion,” it was Plaintiff’s burden to “submit affidavits or
24 other evidence” establishing the elements of standing. *Lujan v. Defenders of Wildlife*, 504 U.S.
555, 563 (1992); *see also Scott v. Pasadena Unified School Dist.*, 306 F.3d 646, 655 (9th Cir.
2002) (the burden of establishing standing “at all times” remains “with the party invoking federal
jurisdiction”). Plaintiff has not met that burden.

1 showing a sufficiently close relationship for third-party standing (Dkt. No. 59 at 15–16), the
2 Court is unpersuaded by Plaintiff’s argument that the Foundation’s fundraising to support its
3 services to public employees renders Plaintiff’s relationship with those public employees
4 analogous to a vendor-client relationship.² The Court therefore cannot find Plaintiff has
5 established third party standing.

6 As Plaintiff fails to establish standing, Defendant Inslee’s motion for summary judgment
7 (Dkt. No. 58) is GRANTED.

8 Dated this 17th day of November 2023.

9
10 

11

David G. Estudillo
12 United States District Judge
13
14
15
16
17
18
19
20
21
22

23 ² The only binding authority to which Plaintiff cites in support of its contention that it has a
24 sufficiently close relationship with public employees is a case that the Court already found
involved entirely different circumstances than those presented here. (Dkt. No. 54 at 7.)